

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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ASSURE GLOBAL, LLC,

Plaintiff,

-against-

ISAIAH D. FREY and MED KING SUPPLY,

Defendants.

1:21-cv-5301-MKV

ORDER

MARY KAY VYSKOCIL, United States District Judge:

On July 21, 2022, Defendant Isaiah Frey filed a Cross-Motion to Dismiss this action for insufficient service of process pursuant to Federal Rule of Civil Procedure 12(b)(5). [ECF No. 41]. In response, Plaintiff requested an extension to properly effectuate service of process. [ECF No. 42]. Plaintiff explained that it had contracted with a professional process server, which made at least six attempts to personally serve Defendant at his residence before attempting to serve by mail. [ECF No. 44]. Plaintiff further explained that it had not learned until Defendant filed his motion to dismiss that the envelope used for service did not include certain language required for proper service under New York law. [ECF No. 44]. Under the circumstances, this Court exercises its discretion to extend Plaintiff's deadline to properly serve Defendant to September 30, 2022. *See DeLuca v. Access IT Grp.*, 695 F. Supp. 2d 54 (S.D.N.Y. 2010) (noting that a court has discretion to grant an extension for service of process even absent a showing of good cause).

IT IS FURTHER ORDERED Defendant's Cross-Motion to Dismiss [ECF No. 41] is denied without prejudice as moot, with leave to refile if Plaintiff fails to timely serve.

SO ORDERED.

**Date: August 24, 2022
New York, NY**


MARY KAY VYSKOCIL
United States District Judge